

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MBR CONSTRUCTION SERVICES, INC.,)	
)	Civil Action
Plaintiff)	No. 11-cv-07218
)	
vs.)	
)	
)	
CITY OF READING;)	
HIRNEISEN ELECTRIC, INC.,)	
INDEPENDENCE LIGHTING, INC.,)	
)	
Defendants)	

O R D E R

NOW, this 28th day of September, 2012, upon
consideration of the following documents:

- (1) Defendant City of Reading's Motion to Dismiss the Complaint, which motion was filed December 19, 2011 (Document 20), together with
 - (A) Defendant City of Reading's Brief in Support of Its Motion to Dismiss the Complaint (Document 20-2); and
 - (B) Exhibits "A" through "G" to Defendant City of Reading's brief (Document 20-3);
- (2) Response to Motion to Dismiss, which response was filed by plaintiff on January 16, 2012 (Document 32), together with
 - (A) Plaintiff's Memorandum in Support of Their Response to Defendant's Motion to Dismiss (Document 32-1);

- (3) Plaintiff's Amended Memorandum in Support of Their Response to Defendant's Motion to Dismiss, which memorandum was filed January 26, 2012 (Document 34)¹; and
- (4) Verified Complaint filed November 18, 2011 (Document 1), together with
 - (A) Exhibits "A" through "J" to the Verified Complaint;

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that Defendant City of Reading's Motion to Dismiss the Complaint is granted in part and denied in part.

IT IS FURTHER ORDERED that defendant City of Reading's motion to dismiss Count I of the Verified Complaint is granted as unopposed.

IT IS FURTHER ORDERED that Count I of plaintiff's Verified Complaint is dismissed with prejudice.

IT IS FURTHER ORDERED that defendant City of Reading's motion to dismiss Count II of the Verified Complaint is granted to the extent it seeks dismissal of Count II without prejudice.

IT IS FURTHER ORDERED that Count II of plaintiff's Verified Complaint is dismissed without prejudice for plaintiff to file an amended complaint amending Count II of the Verified Complaint in accordance with the accompanying Opinion.

¹ By Order dated January 25, 2012 and filed January 26, 2012 (Document 33) I approved a Stipulation to Amend Memorandum, which permitted plaintiff to file an amended memorandum in opposition to defendant's motion to dismiss.

IT IS FURTHER ORDERED that defendant City of Reading's motion to dismiss Count III of the Verified Complaint is denied.

IT IS FURTHER ORDERED that defendant City of Reading's motion to dismiss Count IV of the Verified Complaint is granted.

IT IS FURTHER ORDERED that Count IV of plaintiff's Verified Complaint is dismissed with prejudice.

IT IS FURTHER ORDERED that defendant City of Reading's motion to dismiss Count V of the Verified Complaint is granted to the extent it seeks dismissal of Count V without prejudice.

IT IS FURTHER ORDERED that Count V of plaintiff's Verified Complaint is dismissed without prejudice for plaintiff to file an amended complaint amending Count V of the Verified Complaint in accordance with the accompanying Opinion.

IT IS FURTHER ORDERED that plaintiff shall have until October 29, 2012 to file an amended complaint amending Counts II and V of the Verified Complaint.

IT IS FURTHER ORDERED that in the event plaintiff does not file an amended complaint on or before October 29, 2012, defendant City of Reading shall have until November 19, 2012 to file an answer to Count III of the Verified Complaint.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge